

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

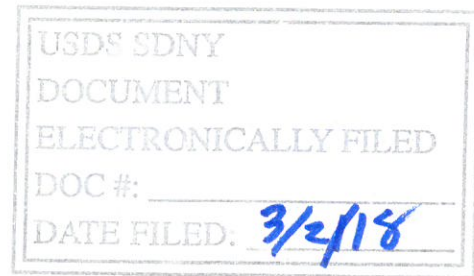
GASPAR CARDOSO-NAVARETTE,

Plaintiff

-v-

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.



17-cv-2446 (RJS)
ORDER ADOPTING
REPORT & RECOMMENDATION


RICHARD J. SULLIVAN, District Judge:

On April 5, 2017, Plaintiff filed this action seeking judicial review of a decision of the Commissioner of Social Security denying his application for benefits. (Doc. No. 1.) On April 6, 2018, the Court referred this case to the Honorable Andrew J. Peck, Magistrate Judge, for a Report and Recommendation. (Doc. No. 7). On September 8, 2017, Plaintiff filed a motion for judgment on the pleadings (Doc. No. 16), and on November 7, 2017, Defendant filed a cross-motion for judgment on the pleadings and a brief in support of that cross-motion and in opposition to Plaintiff's motion (Doc. Nos. 21, 22). Plaintiff filed a reply brief on November 28, 2017. (Doc. No. 23.) On December 13, 2017, Magistrate Judge Peck issued a Report and Recommendation granting Plaintiff's motion and denying Defendant's cross-motion, finding that the Administrative Law Judge ("ALJ") failed to properly consider the reports of two physicians, Dr. Andrew Faskowitz and Dr. Rita Figueroa. (Doc. No. 25.) Magistrate Judge Peck advised the parties that failure to object within fourteen days of the order would result in waiver of objections and preclude appellate review. (*Id.* at 26.) To date, neither party has filed any objections and the time to do so has long since expired.

“When no objections to a Report and Recommendation are made, the Court may adopt the Report if there is no clear error on the face of the record.” *Correale-Englehart v. Astrue*, 687 F. Supp. 2d 396, 401 (S.D.N.Y. 2010). After conducting a thorough review of the record, the Court concludes that Magistrate Judge Peck’s opinion is not facially erroneous – particularly with respect to the ALJ’s consideration of Drs. Faskowitz and Figueroa. Accordingly, the Court adopts the Report and Recommendation, grants Plaintiff’s motion for judgment on the pleadings, denies Defendant’s motion, vacates the judgment of the ALJ, and remands this matter to allow the ALJ to further develop the record and consider the evidence in a manner consistent with Magistrate Judge Peck’s opinion.

The Clerk of Court is respectfully directed to terminate the motions pending at docket numbers 16 and 21 and to close this case.

Dated: March 2, 2018
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE